UNITED STATES PATENT AND TRADEMARK OFFICE

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09/909,630	07/19/2001	Yakov Kamen	ISURFTV146	9979

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EXAMINER
CASCHERA, ANTONIO A

ART UNIT	PAPER NUMBER
2628	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>19 September 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-7,11-17 and 21-27</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,3-7,11,13-17 and 21-27</u> is/are rejected.

7)☒ Claim(s) <u>2 and 12</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>31 December 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   Receipt is acknowledged of a request for continued examination under 37 CFR 1.114,

including the fee set forth in 37 CFR 1.17(e) and a submission, filed on 09/19/2007.

Priority

2.   Acknowledgment is made of Applicant's claim for domestic priority under 35

U.S.C. 119(e).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claims 21-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter.

In reference to claim 21, the language of the claim raises questions as to whether the

claims (claim 21 and all dependent claims) are directed merely to an abstract idea that is not tied

to a technological art, environment or machine which would result in a practical application

producing a concrete, useful, and tangible result to form the basis of statutory subject matter

under 35 U.S.C. 101. Specifically, the "machine-readable storage medium embodying a

sequence of instructions..." as disclosed in claim 21, is the abstract idea since the specification

specifically associates the machine-readable media with propagated signals such as carrier waves

(see paragraph 18 of the specification) which is therefore interpreted as a carrier medium of

signals and is nonstatutory as seen by the current practices and procedures of the Office. See

MPEP 2106 IV (B)(1) and 2106.01 [R-5].

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Kohno et al.

(U.S. Patent 6,462,784 B1).

In reference to claims 1 and 11, Kohno et al. discloses an apparatus and method for

displaying program contents (see column 1, lines 6-12) utilizing a monitor device, integrated

receiver/decoder and remote commander (see column 5, lines 30-32). Kohno et al. discloses the

remote commander acting as a selecting means to select on-air programming information in an

EPG (see column 7, lines 34-40) and the receiver receiving the selection by the remote

commander (see column 5, lines 26-59). Kohno et al. also discloses modifying a non-textual

attribute associated with the object by an incremental amount for each of at least two times that

the object is selected, wherein each modification of the attribute includes changing a visible

characteristic of the object and wherein each modification results in a different appearance of the object (see column 10, lines 25-37 and Figures 12A and 12B). Note the Office interprets the selecting and deselecting of the category setting object resulting in the coloring and reverse coloring of the object in Kohno et al. functionally equivalent to the modifying a non-textual attribute associated with the object by an incremental amount for each of at least two times the object is selected of Applicant's claim since coloring an object and invert coloring the object can be broadly considered as incremental changes. Further, the limitation of modifying the object, "…for each of at least two times the object is selected" is inherently taught by Kohno et al. as the user may press (select) and depresses (deselect) the category setting object as many times as they wish resulting in the continuing change (different appearance) in color (visible characteristic) of the object. Kohno et al. further discloses displaying the color and reserve colored setting object when a user selects/deselects the object (see column 10, lines 31-37 and Figures 12A and 12B). Further, in reference to claim 11, Kohno et al. discloses the apparatus comprising a CPU and control program code for execution by the CPU (see column 7, liens 8-33, #60 and 62 of Figure 5). Note, the Office interprets the apparatus of Kohno et al. inherently comprising of some sort of memory unit for storing the above mentioned program code.

5.   Claims 21 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al. (U.S. Patent 6,463,428 B1).

        In reference to claim 21, Lee et al. discloses a user interface for querying and displaying records from a database and explicitly from EPGs utilizing a computer (see column 1, lines 60-62 and column 2, lines 13-36). Lee et al. discloses the invention used in conjunction with a computer that is connected to a TV or monitor (see columns 6-7, lines 58-18 and #230, 240 of

Figure 1). Lee et al. explicitly discloses the computer comprising of a mass storage device or

hard drive for storing program applications (see column 7, lines 11-14). Lee et al. also discloses

allowing a user to use the tool to search/display via a rotational element that comprises of

"beads," with each "bead" having an associated string accompanied thereto (see column 8, lines

28-56 and #150, 110, 115 and "Movies" bead of Figure 4). Lee et al. explicitly discloses that the

user is capable of navigating to a desired string using the vertical cursor keys of a remote control

(see #212, 232 of Figure 2), which modifies the display of the UI to create the effect of rolling

the beads up or down on each key press, bringing a new bead and string into the "selected,"

middle region (see column 8, lines 28-56 #150, 110, 115 and "Movies" bead of Figure 4). Lee et

al. further discloses changing the bolding, color or highlighting of the string when the bead is in

the "selected," middle state (see column 8, lines 30-39). Note, as can be seen from Figure 4, the

bead size is changed as the bead gets closer to the centered, "selected" position. Each of these

sized bead levels or positions are seen as "progressive change[s]" in a visible characteristic of the

attribute, with the attribute interpreted as the size of the bead and the object interpreted as the

"rolling" UI or #150 of Figure 4 of Lee et al.. Further, the Office interprets that each press of the

vertical cursor keys in Lee et al. warrants a selection of that UI tool thereby constituting

progressive changes in visible characteristics (ordering of beads, sizes of beads, 3D position of

beads) which appear differently with each press of the vertical cursor keys as the "rolling" effect

of the object is displayed. Lastly, with regards to Applicant's changing of the attribute at least

two times limitation, the Office interprets that Lee et al. inherently discloses such features with

regards to the user interface tool of Figure 4 since the user is capable of "rolling" the beads

up/down (common direction) and "rolling" the beads at least more than two positions or levels in either direction.

In reference to claim 24, Lee et al. discloses all of the claim limitations as applied to claim 21 above. Lee et al. explicitly discloses that the user is capable of navigating to a desired string using the vertical cursor keys of the remote control (see #212, 232 of Figure 2), which modifies the display of the UI to create the effect of rolling the beads up or down on each key press, bringing a new bead and string into the "selected" region (see column 8, lines 28-56 #150, 110, 115 and "Movies" bead of Figure 4). Note, as can be seen from Figure 4, the bead size is changed as the bead gets closer to the centered, "selected" position, thereby creating a progressive change in depth of the bead with each interpreted selection (press of the vertical cursor keys) of the UI tool.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 3, 4, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohno et al. (U.S. Patent 6,462,784 B1) in view of Bedard (U.S. Patent 5,793,438).

In reference to claims 3 and 13, Kohno et al. discloses all of the claim limitations as applied to claims 1 and 11 respectively however Kohno et al. does not explicitly disclose

modifying the shape of the object, Bedard does. Bedard discloses an Electronic Program Guide

which presents program guide information in table form at different levels of resolution (see

lines 1-3 of abstract). Bedard discloses the EPG to comprise of a first table showing channel

names, times and program content represented as square (see #502), sometimes shaded (#504),

objects (see Figure 5 of Bedard). Bedard also disclose a magnified table (#510) overlaid over

base table (#502) which magnifies the program content object and turns the square into a

rectangle with text to describe the program information (see Figure 5). Note, the Office

interprets such a change from square to rectangle functionally equivalent to a "progressive"

change since the dimensions of the square to rectangle in Bedard are increased upon selection. It

would have been obvious to one of ordinary skill in the art at the time the invention was made to

implement the EPG GUI modifying techniques of Kohno et al. with the program information

object shape changing of Bedard in order to display an EPG which presents at least five hours of

scheduling information while meeting the limitations of the television screen's resolution (see

column 2, lines 15-19 of Bedard) thereby allowing for the efficient utilization of screen real

estate to be realized.

In reference to claims 4 and 14, Kohno et al. discloses all of the claim limitations as

applied to claims 1 and 11 respectively however Kohno et al. does not explicitly disclose

modifying the 3D position of the object, Bedard does. Bedard discloses an Electronic Program

Guide which presents program guide information in table form at different levels of resolution

(see lines 1-3 of abstract). Bedard discloses the EPG to comprise of a first table showing channel

names, times and program content represented as square (see #502), sometimes shaded (#504),

objects (see Figure 5 of Bedard). Bedard also disclose a magnified table (#510) overlaid over

base table (#502) which magnifies the program content object and turns the square into a

rectangle with text to describe the program information (see Figure 5). Since the magnified table

(#510 of Figure 5) displays an enlarged, detailed view of the current program information at a

certain time slot by creating the effect that the magnified object is closer to the user than the

smaller square program information objects (#503, 504 of Figure 5), the Office interprets such a

detailed view as being functionally equivalent to progressively modifying a 3D position of the

object. It would have been obvious to one of ordinary skill in the art at the time the invention

was made to implement the EPG GUI modifying techniques of Kohno et al. with the program

information object shape changing of Bedard in order to display an EPG which presents at least

five hours of scheduling information while meeting the limitations of the television screen's

resolution (see column 2, lines 15-19 of Bedard) thereby allowing for the efficient utilization of

screen real estate to be realized.

7.   Claims 5-7 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Kohno et al. (U.S. Patent 6,462,784) in view of Wilcox et al. (U.S. Patent 6,678,891 B1).

In reference to claims 5 and 15, Kohno et al. discloses all of the claim limitations as

applied to claims 1 and 11 respectively above. Kohno et al. does not explicitly disclose

overwriting the attribute with a default attribute when an expiration value limit is reached.

Wilcox et al. discloses a collection of on-screen interface components arranged in combination to

provide an easy to use computer interface (see column 2, lines 22-25). Wilcox et al. discloses an

overview of the execution of the user interface which includes detecting if a user has depressed a

key and if not noting a "timeout" situation and performing certain processing in turn (see column

17, lines 60-63, columns 18-19, lines 60-3, column 19, lines 21-25 and Figures 124 and 125).

The "expiration value" of Applicant's claims is seen as functionally equivalent to a certain time value inherently disclosed in the "time out" of Wilcox et al. Note that Wilcox et al. marks the entire video buffer as dirty (see Figure 125) necessitating a buffer refresh of data which inherently comprises of modified data (see column 19, lines 24-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the interface processing of Wilcox et al. with the EPG GUI modifying techniques of Kohno et al. in order to properly handle user input in an interface by detecting user activity and displaying or not displaying certain data, creating an intuitive interface (see column 2, lines 5-7 and column 18, lines 50-54 of Wilcox et al.).

In reference to claims 6 and 16, Kohno et al. and Wilcox et al. disclose all of the claim limitations as applied to claims 5 and 15 respectively above. Wilcox et al. discloses an overview of the execution of the user interface which includes detecting if a user has depressed a key and if not noting a "timeout" situation and performing certain processing in turn (see column 17, lines 60-63, columns 18-19, lines 60-3, column 19, lines 21-25 and Figures 124 and 125). The "expiration value" of Applicant's claims is seen as functionally equivalent to a certain time value inherently disclosed in the "time out" of Wilcox et al.

In reference to claims 7 and 17, Kohno et al. and Wilcox et al. disclose all of the claim limitations as applied to claims 5 and 15 respectively above. Wilcox et al. also discloses a menu interface element which is arranged in a circular form (see column 12, lines 41-60 and #114 of Figure 5). The Office believes that the "circular form" menu of Wilcox et al. inherently returns to a default or first menu item when the user has scrolled through all of the when items or the max number of menu items.

8.   Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (U.S.

Patent 6,463,428 B1) in view of Bedard (U.S. Patent 5,793,438).

In reference to claim 23, Lee et al. discloses all of the claim limitations as applied to

claim 21 above. Although Lee et al. discloses modifying a 3D position attribute of the object,

Lee et al. does not explicitly disclose modifying the shape of the EPG object. Bedard discloses

an Electronic Program Guide which presents program guide information in table form at

different levels of resolution (see lines 1-3 of abstract). Bedard discloses the EPG to comprise of

a first table showing channel names, times and program content represented as square (see #502),

sometimes shaded (#504), objects (see Figure 5 of Bedard). Bedard also discloses a magnified

table (#510) overlaid over base table (#502) which magnifies the program content object and

turns the square into a rectangle with text to describe the program information (see Figure 5). It

would have been obvious to one of ordinary skill in the art at the time the invention was made to

implement the program information object shape changing of Bedard with the user interface

searching/displaying tools of Lee et al. in order to maximize the display of EPG data while

meeting the limitations of the television screen's resolution (see column 2, lines 15-19 of

Bedard) thereby allowing for the efficient utilization of screen real estate to be realized.

9.   Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al.

(U.S. Patent 6,463,428 B1) in view of Wilcox et al. (U.S. Patent 6,678,891 B1).

In reference to claim 25, Lee et al. discloses all of the claim limitations as applied to

claim 21 above. Lee et al. does not explicitly disclose overwriting the attribute with a default

attribute when an expiration value limit is reached. Wilcox et al. discloses a collection of on-

screen interface components arranged in combination to provide an easy to use computer

interface (see column 2, lines 22-25). Wilcox et al. discloses an overview of the execution of the user interface which includes detecting if a user has depressed a key and if not noting a "timeout" situation and performing certain processing in turn (see column 17, lines 60-63, columns 18-19, lines 60-3, column 19, lines 21-25 and Figures 124 and 125). The "expiration value" of Applicant's claims is seen as functionally equivalent to a certain time value inherently disclosed in the "time out" of Wilcox et al. Note that Wilcox et al. marks the entire video buffer as dirty (see Figure 125) necessitating a buffer refresh of data which inherently comprises of modified data (see column 19, lines 24-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the interface processing of Wilcox et al. with the user interface searching/displaying tools of Lee et al. in order to properly handle user input in an interface by detecting user activity and displaying or not displaying certain data, creating an intuitive interface (see column 2, lines 5-7 and column 18, lines 50-54 of Wilcox et al.).

In reference to claim 26, Lee et al. and Wilcox et al. disclose all of the claim limitations as applied to claim 25 above. Wilcox et al. discloses an overview of the execution of the user interface which includes detecting if a user has depressed a key and if not noting a "timeout" situation and performing certain processing in turn (see column 17, lines 60-63, columns 18-19, lines 60-3, column 19, lines 21-25 and Figures 124 and 125). The "expiration value" of Applicant's claims is seen as functionally equivalent to a certain time value inherently disclosed in the "time out" of Wilcox et al.

In reference to claim 27, Lee et al. and Wilcox et al. disclose all of the claim limitations as applied to claim 25 above. Wilcox et al. also discloses a menu interface element which is

arranged in a circular form (see column 12, lines 41-60 and #114 of Figure 5). The Office

believes that the "circular form" menu of Wilcox et al. inherently returns to a default or first

menu item when the user has scrolled through all of the when items or the max number of menu

items.

Allowable Subject Matter

10.   Claims 2 and 12 are objected to as being dependent upon a rejected base claim, but would

be allowable if rewritten in independent form including all of the limitations of the base claim

and any intervening claims. Note, claim 22 suffers from 35 USC 101 issues however no prior art

rejection has been applied thereto.

Response to Arguments

11.   Applicant's arguments, see page 6 of Applicant's Remarks, filed 09/19/07, with respect

to objection of the oath/declaration have been fully considered and are persuasive. The objection

of the oath/declaration has been withdrawn since an application data sheet has been filed on

08/20/07 comprising of the correct provisional priority date.

12.   Applicant's arguments, see pages 6-8, filed 04/29/2004, with respect to the rejection(s)of

claim(s) 1-7 and 11-17 under Yasukawa, Lee, Bedard and Wilcox, have been fully considered

and are persuasive. Therefore, the rejection has been withdrawn. However, upon further

consideration, a new ground(s) of rejection is made in view of the Kohno et al.. Note, Applicant

seems to have amended the claims so that they are now broader than the most previous version

therefore, the Office reapplies Kohno et al. as applicable prior art.

13.   Applicant's arguments, see pages 6-8, filed 04/29/2004, with respect to the rejection(s)of

claim(s) 21-27 under Yasukawa, Lee, Bedard and Wilcox, have been fully considered and are

persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration,

a new ground(s) of rejection is made in view of Lee et al.. Note, a new interpretation of Lee et

al. is made herein which slightly changes the Office's interpretation of the object and its

selection from selecting the "beads" themselves to the actual "rolling" UI tool of Lee et al. with

each keypress of the vertical cursor keys.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781.

The examiner can normally be reached Monday-Thursday and alternate Fridays between 7:00

AM and 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kee Tung, can be reached at (571) 272-7794.

Any response to this action should be mailed to:

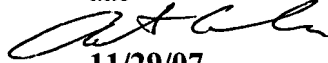Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

571-273-8300 (Central Fax)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (571) 272-2600.

aac

11/29/07